

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 19

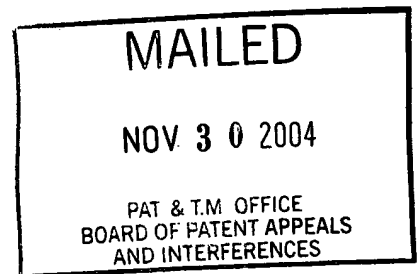
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SANTHANA KRISHNAMACHARI

Appeal No. 2004-0930
Application No. 09/934,962

ON BRIEF



Before HAIRSTON, OWENS, and BLANKENSHIP, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

ON REQUEST ON REHEARING

The appellant requests rehearing of our decision with respect to the affirmance of the rejection of claims 6-10 and 16-20 under 35 U.S.C. § 102(e) over Sato.

In our decision we affirmed the rejection of claim 6 (and claims 7-10 and 16-20 that stood or fell therewith) because the examiner's rejection of claim 6 based upon Sato's seventh and

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eighth embodiments reasonably appeared to be correct and the appellant did not challenge the examiner's rejection based upon that portion of Sato (decision, page 5).

All of the arguments in the appellant's brief and reply brief were directed toward the examiner's rejection based upon Sato's sixth embodiment. In the request for rehearing, the appellant, for the first time, challenges the rejection based upon Sato's seventh and eighth embodiments.

The relevant rule in effect as of the filing date of the appellant's reply brief, 37 CFR § 1.192(a) (2002), stated:

The brief must be accompanied by the fee set forth in § 1.17(c) and must set forth the authorities and arguments on which appellant will rely to maintain the appeal. Any arguments or authorities not included in the brief will be refused consideration by the Board of Patent Appeals and Interferences, unless good cause is shown.

Such good cause has not been shown by the appellant.


Thus, the appellant's argument in the request for rehearing is untimely. Consequently, we decline to consider that argument. Accordingly, the appellant's request for rehearing is denied.


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No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a).

REHEARING DENIED


KENNETH W. HAIRSTON)
Administrative Patent Judge)


TERRY J. OWENS)
Administrative Patent Judge)


HOWARD B. BLANKENSHIP)
Administrative Patent Judge)

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